

40-10-28 Recovery of reclamation costs -- Lien against reclaimed land.

- (1) All reclamation costs of each project shall be recovered to the extent possible, taking into consideration the objectives of the project and the criteria under which the project was selected for reclamation work, in accordance with the following:
 - (a) All possible reclamation costs shall be recovered at the time of first sale of land following reclamation as follows:
 - (i) Whenever reclaimed land is sold at a value higher than that at which the unreclaimed land was appraised immediately prior to reclamation, the difference between the pre and post reclamation values shall be payable to the fund to mitigate or offset the cost of the reclamation program.
 - (ii) When land is to be sold to a state or local government for public purposes, the amount of the sale price may be less than the market value after reclamation but may not be less than the actual cost of the purchase of the property by the state plus the costs of reclamation.
 - (b)
 - (i) Special charges for use of land may be levied, including recreation fees, leases, livestock grazing fees, or other land use fees. These fees may be waived by the division when deemed to be to the public benefit.
 - (ii) These user fees, however, shall be charged to all users of the reclaimed lands if the uses result in financial or personal benefits to persons, corporations, or profit-making organizations.
 - (iii) All fees collected, less operating and maintenance expenses, shall be deposited in the fund.
- (2)
 - (a) The division shall place a lien against reclaimed land, the market value of which has increased as a result of the reclamation work, except where the surface owner owned the land prior to May 2, 1977, and neither consented to nor participated in nor exercised control over the mining operation which necessitated the reclamation work.
 - (b) The division may waive the requirement of a lien where land is owned by a state, local government, or municipality or when owned and operated for a charitable public purpose by a nonprofit charitable organization.
 - (c) The amount of the lien shall consist of the money expended for the reclamation work but shall not exceed the resulting increase in the market value of the reclaimed land as determined by an independent appraiser.
 - (d) A written statement of money expended for the reclamation work, together with a notarized appraisal of an independent appraiser of the market value of the land before and after the reclamation work, shall within six months after completion of the reclamation work, be filed in the office of the county recorder of the county in which the land lies.

Amended by Chapter 219, 1994 General Session